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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/397,300	09/15/1999	MARKO VALO	442-008869-U	8581
7590 01/27/2004				
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 064306232		EXAMINER RAMOS FELICIANO, ELISEO		
		ART UNIT PAPER NUMBER		
		2681		

DATE MAILED: 01/27/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**Application No.  
**09/397,300**Applicant(s)  
**VALO et al.**Examiner  
**ELISEO RAMOS-FELICIANO**Art Unit  
**2681**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Jan 12, 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**THE PERIOD FOR REPLY [check only a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

**NOTE:**

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because:

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-11

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 12-18

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☒ Other: see attachment.

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed January 12, 2004 (hereinbelow simply referred as the "arguments") have been fully considered but they are not persuasive.
2. Applicant argues that Snowden does not disclose a status bit indicating flow control (the arguments, page 7, second paragraph under section 5). In support to this statement, applicant contends that column 5, lines 21-35 of Snowden teach that the bit rate indicator 460 is an indication of modulation frequency, not an indication of flow control (the arguments, page 8, second and third full paragraphs). Applicant adds that Snowden's bit rate indicator 460 is not the same thing as the status bit of the present invention.

In response to applicant's arguments, it should be noted that the limitation "status bit" reads on Snowden's bit rate indicator 460 because it is an indication of the bit rate (or data rate) to be used subsequent to determining its value; for example 25,000 bps or 50,000 bps (column 9, lines 36-39 & 67, column 10, lines 1-5 of Snowden). In fact, at column 5, lines 27-29, Snowden explains that "the bit rate at which demodulation is performed is determined by an optimum bit rate indicator 460 (FIG. 6)" (*emphasis added*). Therefore, the optimum bit rate indicator 460 indicates the bit rate (or data rate) at which modulation frequency occurs, not the modulation frequency *per se*, as argued by applicant. "Flow control" can be found in the fact that the bit rate or data rate is changed, adjusted or controlled by analyzing the bit rate indicator 460 (status bit).

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3. Applicant further argues that Suzuki does not disclose a status bit indicating flow control (the arguments, page 9, section 6). However, Suzuki has been applied in combination with Snowden. The combination, meet each and everyone of the claimed limitations including a status bit indicating flow control, as explained above.

***Conclusion***

4. Any response to this Office action should be mailed to:  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231  
or faxed to:  
(703) 872-9306  
for formal communications intended for entry, informal communications or draft communications; in the case of informal or draft communications, please label "PROPOSED" or "DRAFT".

Hand-delivered responses should be brought to  
Crystal Park II  
2121 Crystal Drive  
Arlington, VA  
Sixth Floor (Receptionist).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliseo Ramos-Feliciano whose telephone number is (703) 305-0078. The examiner can normally be reached on Monday through Thursday (first week of bi-week) and Monday through Friday (second week of bi-week) from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran, can be reached on (703) 305-4040.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700, or call Group customer service at (703) 306-0377.

**ELISEO RAMOS-FELICIANO  
PATENT EXAMINER**

  
**SINH TRAN  
PRIMARY EXAMINER**

ERF/erf  
January 23, 2004.